

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SOUTHWEST KEY PROGRAMS, INC.,)
)
 Plaintiff,)
)
 vs.) No. 3:15-cv-0115-H(BLM)
)
 CITY OF ESCONDIDO,)
)
 Defendants.)
)

DEPOSITION OF DANIELA RIOS

San Diego, California

Wednesday, May 11, 2016

Reported by:
LINDA SILVER RYAN
CSR No. 9915
JOB No. 12203

SOUTHWEST KEY PROGRAMS, INC.,)
)
Plaintiff,)
)
vs.) No. 3:15-cv-0115-H(BLM)
)
CITY OF ESCONDIDO,)
)
Defendants.)
_____)

Deposition of DANIELA RIOS, taken on behalf of Defendants, at 4401 Eastgate Mall, San Diego, California, beginning at 9:56 a.m. and ending at 2:11 p.m. on Wednesday, May 11, 2016, before LINDA SILVER RYAN, Certified Shorthand Reporter No. 9915.

1 APPEARANCES:

2
3 For Plaintiff:

4 ACLU FOUNDATION OF SAN DIEGO & IMPERIAL COUNTIES
5 BY: BARDIS VAKILI, ESQ.
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10 For Defendant:

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12 Attorneys at Law
13 BY: ALAN B. FENSTERMACHER, ESQ.
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1 only thing I ask is that you finish a question pending
2 before the break. So don't take a break in the middle of
3 a question. Does that make sense?

4 A Yes.

5 MR. FENSTERMACHER: I'm going to mark this as
6 Exhibit 1.

7 (Defendant's Exhibit 1 was marked and
8 is attached hereto.)

9 BY MR. FENSTERMACHER:

10 Q Have you ever seen this document before,
11 Ms. Rios?

12 A No.

13 Q Do you see your name listed sort of in the middle
14 in bold at the center of this document?

15 A Yes.

16 Q Do you understand that this document compels you
17 here today to testify in connection with the Southwest Key
18 Programs, Inc. versus City of Escondido lawsuit?

19 A Yes.

20 Q If I just say "the city," will you understand
21 that I'm referring to the City of Escondido?

22 A Yes.

23 Q By whom are you currently employed?

24 A Southwest Key Programs.

25 Q How long have you been there?

1 A For 15 years.

2 Q What is your current position?

3 A Program director.

4 Q Of which program?

5 A Lemon Grove and El Cajon.

6 Q What was your position before you were the
7 program director of Lemon Grove and El Cajon?

8 A Executive assistant.

9 Q During what years did you have that position?

10 A From 2001 to 2006.

11 Q So then from 2006 to the present you've been a
12 program director?

13 A Yes.

14 Q Do I understand correctly at some point Lemon
15 Grove and El Cajon were combined?

16 A I'm not understanding the combined.

17 Q Let me try it.

18 At any point were you just the program director
19 of Lemon Grove facility only and then later became program
20 director of Lemon Grove and El Cajon?

21 A Yes.

22 Q When did that change occur?

23 A In 2015.

24 Q So as the program director for Lemon Grove, El
25 Cajon, what are your duties?

1 A I oversee the operations of the program.

2 Q When you say "the program," are you referring to
3 a facility that houses children?

4 A Yes.

5 Q I've seen the acronym UAC.
6 Do you understand what that is?

7 A Yes.

8 Q Does that stand for unaccompanied alien children?

9 A Yes.

10 Q Is that a term that you use?

11 A Not vocally, but it's on paper.

12 Q What is the term that you would use for the
13 children that stay in the Lemon Grove or El Cajon
14 facility?

15 A "Minors" or "clients" or "children."

16 Q Would the term "unaccompanied immigrant minors"
17 be different than "unaccompanied alien children"?

18 A No, it would be the same.

19 Q So throughout the deposition today, if I refer to
20 a Southwest Key facility, will you understand generally
21 that I'm referring to a facility that houses unaccompanied
22 immigrant children or unaccompanied immigrant minors?

23 A Yes.

24 Q Have you ever been involved with any other of
25 Southwest Key's facilities other than Lemon Grove and El

1 But you can answer to the extent you think you
2 know.

3 THE WITNESS: Well, they don't enter the program with
4 Visas. If they get Visas, the program is not aware of
5 that since they leave the program before they finish their
6 immigration hearings.

7 BY MR. FENSTERMACHER:

8 Q Right. Okay.

9 So in other words, if a child did have a Visa or
10 was an American citizen, they wouldn't be at your
11 facilities, right?

12 A That's correct. Unless they -- it was later
13 found that they were U.S. citizens, and then they leave
14 our program.

15 Q So as soon as that was found out, they would
16 leave?

17 A That's correct.

18 Q So, in other words, any child with a Visa or that
19 was a citizen would not be permitted to stay at one of
20 Southwest Key's facilities?

21 A That's correct.

22 Q And similar question, if a child turns 18, are
23 they then no longer permitted to stay at one of Southwest
24 Key's facilities?

25 A That's correct.

1 is that sort of everyone's job, I guess?

2 A That's everyone's job. But there is what we call
3 youth care workers, that their specific job is to
4 supervise and interact with the kids and make sure that
5 they are doing the different activities that are provided
6 at the program.

7 Q For each day, is there a printed-out schedule
8 that the Southwest Key employees have that you're making
9 sure that the children are following?

10 A It's the general Sunday through Saturday
11 schedule, and there is a time frame where there is
12 different activities happening throughout the day.

13 Q So is every Monday the same, then?

14 A Yes.

15 Q So there is not a new schedule every week?

16 A For the activities of the program, no, it's the
17 same schedule. Maybe, if it's vocational, it will say
18 vocational, but a different activity of vocational will be
19 provided for the minors.

20 Q You also mentioned recreation.

21 Are the children at your three facilities
22 recreating off-site?

23 A Sometimes.

24 Q Do any of the facilities have on-site recreation
25 facilities?

1 A I'm sorry?

2 Q Do they receive mail? Are they allowed to send
3 and receive --

4 A They're allowed to receive and send mail. That's
5 not a frequent practice. They tend not to do that.

6 Q Are they allowed to use the telephone?

7 A They have two phone calls a week.

8 Q Are they required to -- "they," I'm sorry.

9 Are the children at your facilities required to
10 perform any sort of chores? I think you mentioned
11 cleaning the room every morning, but is there anything
12 else?

13 A Yeah. They do the cleaning of their rooms, the
14 common areas; like after every meal they clean the tables
15 and sweep, the dining area. And then on Saturdays, they
16 do general cleaning on the common areas, outside grounds.

17 Q They're not compensated in any way for doing
18 those chores, right, it's sort of part of living in the
19 facilities?

20 A That's correct.

21 Q Do any of the children have jobs, some of the
22 older children?

23 A No.

24 Q Are the children at your facility ever
25 disciplined?

1 A If there -- there is a behavioral chart. If they
2 break a rule, they might have to write a letter of
3 apology, depending on what rule is broken. They could not
4 be allowed to go on an outing, depending, again, what the
5 behavior was.

6 Q Is there any other type of disciplinary action
7 that you've seen taken other than what you've just
8 mentioned?

9 A No.

10 Q Would you at any point have to evict a child from
11 a facility if behavior was really bad?

12 A We don't evict children. We might ask for a
13 transfer, but we don't evict.

14 Q So you would transfer to another Southwest Key
15 facility?

16 A To -- it might be another Southwest Key. It
17 might be a different level of care. Office of Refugee
18 Resettlement has different levels of care. So our
19 facility is the basic level. There is residential
20 treatment centers, so mental health facilities. There is
21 staff secure and secure facilities.

22 Q I'm sorry, you said "basic level."

23 Is there a defined term for the type of facility
24 that you run?

25 A It's a group home.

1 A It's done through Juvenile Community and Court
2 Schools. So JCCS.

3 Q What kind of other programs does that entity run,
4 do you know?

5 A I don't know.

6 Q So children at your facilities are not allowed to
7 leave on their own, right, unaccompanied by a Southwest
8 Key staff?

9 A They have to be accompanied by an employee.

10 Q So they don't own bikes or cars?

11 A No.

12 Q Can a child ever request to leave, or do they
13 leave at the scheduled times for activities and medical?

14 A Right. They leave when they're doing an activity
15 or when they have a medical appointment or education.
16 They just don't leave on their own. They don't ask to
17 leave, can I go to the corner store, they don't do that.
18 That's not allowed.

19 Q Not allowed, okay.

20 So even if, say, a child just wanted to go take a
21 walk down the block, not permitted?

22 A No.

23 Q Who decides when a child can leave? Is it you,
24 via -- strike that.

25 Do you generate the weekly schedule? Is that

1 under your supervision?

2 A I don't understand what "weekly schedule" you're
3 referring to.

4 Q You mentioned like a Saturday through Sunday kind
5 of weekly schedule for your facilities.

6 A Yes.

7 Q Is that something that you draft?

8 A I draft it, yes, the schedule.

9 Q So would anyone else besides you be permitted to
10 allow a child to leave one of your facilities?

11 A No.

12 Q On average, how often would you say a typical
13 child would leave your facility in a given week, whether
14 it's education, recreation, medical?

15 A An average, a typical minor leaves our program
16 daily if they go to the outside school. And then upon
17 arrival to our program, they have to be seen by the
18 medical team at East County Urgent Care within 48 hours.
19 And then normally they would be leaving to get their TB
20 read, but that kind of has changed, and now they're doing
21 blood drawn, so it doesn't have to be read anymore.

22 Q Are you talking about when a child first arrives?

23 A Yes.

24 Q We'll get to that in a little bit.

25 Have you ever had any children at your facilities

1 try to run away?

2 A In the 15 years of being employed, we just
3 recently had a couple of kids run away.

4 Q What did you do after that happened?

5 A We called local police and we called immigration.

6 Q Did the police find them?

7 A I'm not sure.

8 Q So they're not back at your facilities now?

9 A No.

10 Q Do you know what would happen if they were found
11 by local police or immigration?

12 A I don't know what they do after, if they're
13 found.

14 Q If there is a runaway, would that -- would in any
15 instance that minor be brought back to the same facility?

16 A I would -- I don't know if that has happened, but
17 I have the right to say I don't want to accept the minor
18 back into the program since he already had a history of
19 running away.

20 Q So in that situation, you might ask ORR for
21 approval to transfer like we talked about earlier?

22 A I would not accept the placement because it would
23 now be a new placement into the program.

24 Q So you actually can reject any placement that you
25 want of a new child?

1 A If it's not meeting -- if we can't meet the needs
2 of the minor, yes.

3 Q Do you know what happens to the child after that?

4 A They probably find a placement that could meet
5 the needs of the minor.

6 Q "They" being ORR?

7 A Yes.

8 Q Is your staff permitted to restrain a child that
9 is attempting to escape?

10 A No.

11 Q So if there is a child escaping, you just call
12 the authorities?

13 A Yes.

14 Q We kind of touched on this a little bit. I'm
15 curious, how are children placed in your facility? Does
16 ORR come to Southwest Key and say we have, you know, three
17 new children, do you have room, or how does that work?

18 A The Office of Refugee Resettlement has a database
19 that immigration uses as well as the programs to refer
20 minors to ORR. So if a minor is apprehended here in
21 San Diego, they will enter all of their information on
22 what we call the UAC portal, and so then ORR in
23 Washington, D.C. has intake teams, and then they will look
24 at the local facilities close to where the minor is
25 apprehended, and they will send me an email saying this

1 minor will be placed in your facility.

2 Q Okay. And --

3 A So it's all done through like a database.

4 Q When you say "apprehended," what do you mean?

5 A When the immigration has taken custody of an
6 unaccompanied minor, so either at -- anywhere past the
7 border into the United States, or minors just go straight
8 to the port of entry and say I'm here and turn themselves
9 in.

10 Q They will turn themselves in to immigration
11 employees on occasion?

12 A Yes.

13 Q But children don't come directly to you and ask
14 to stay at your facilities, do they?

15 A No.

16 Q And if they did, would you be permitted to accept
17 them?

18 A No. We could only accept minors that are
19 referred through the Office of Refugee Resettlement.

20 Q So you said that you could reject potential
21 children that were referred by the ORR?

22 A Yes, if we can't meet their needs.

23 Q What about if that child had a criminal history,
24 would you accept them?

25 A Our program is basic-level care, so if it's been

1 identified that he has a criminal history, he would
2 probably be placed in a staff secure or secure facility.

3 Q When you say we can't meet their needs, what do
4 you mean in general?

5 A It could be a minor that has psychotropic
6 medication. In our license, we can't accept kids that
7 have psychotropic medication, we can't meet their needs.

8 Q Understood.

9 So you mentioned that the children come to you
10 from ORR or with immigration.

11 When they're with immigration or ORR, are they
12 considered arrested?

13 A I'm not sure --

14 MR. VAKILI: Objection. Calls for a legal conclusion.

15 THE WITNESS: -- what the term is.

16 BY MR. FENSTERMACHER:

17 Q Would you say they're in federal custody?

18 A Yes.

19 Q Can a child transfer to a different Southwest Key
20 facility based on that child's request, saying they
21 weren't getting along with other children at a facility?

22 A The program determines if the minor needs to be
23 transferred, not the child.

24 Q So you might see problems and make a decision,
25 but the child is not the one that is going to make that

1 decision?

2 A Yes.

3 Q So --

4 A It's a team. It's not me. It's the case
5 managers, it's the clinicians. So depending on the minor,
6 there is also a third party, GDIT, that reviews the cases,
7 and then the local representative of Office of Refugee
8 Resettlement will also. So it's a team that decides.

9 Q Understood. Understood.

10 So when a child first arrives, they've been
11 accepted, can you just walk me through their first day,
12 how the intake process would work?

13 A So they're transported to our program, and --

14 Q By ORR?

15 A No. By a team identified by immigration.

16 And so they're brought to our program. They
17 go -- we have a room where we do all intakes. So we
18 process the minors there. So they are offered a warm
19 meal, a shower and clean clothing, and then they're
20 interviewed by the case manager and assessed by the
21 clinician within 24 hours.

22 Q That's where they have a TB screen, I think you
23 mentioned, at some point?

24 A And depending on the time that the minors arrive,
25 if they arrive late in the evening, they will be seen by

1 the medical team, then, the following day. Otherwise,
2 they would be seen the same day.

3 Q Do you attempt to determine if the child has
4 certain vaccinations?

5 A The Office of Refugee Resettlement has a list of
6 vaccinations that all minors have to receive.

7 Q I see.

8 A So if they don't come with their vaccination
9 cards, we just assume they have not received them, so they
10 get all of the vaccinations.

11 Q I see.

12 Do you get any other data from ORR when they give
13 you a pamphlet of documents about the child when you are
14 intaking the new child?

15 A The Office of Refugee Resettlement, the only
16 information they provide is the minor's name, the alien
17 number, date of birth, country of origin and family
18 member's phone number that might be here in the U.S.

19 What I get upon intake from immigration could be
20 their notice to appear, so the charges that they have
21 against -- the government has against them, and what we
22 call a 216. It just has the general information that the
23 minor is being now in the custody of Southwest Key, no
24 longer in the custody of immigration.

25 Q I see.

1 Notice to appear, is that a reference to
2 immigration court?

3 A Yes.

4 Q Does every child at your facility have a pending
5 case with the immigration court?

6 A Yes.

7 Q So back to the intake.

8 Do you assign each child a room? By "you," I
9 mean Southwest Key employees. You say this is your room?

10 A Yes.

11 Q And do they have roommates usually?

12 A Yes.

13 Q Does every child have a roommate?

14 A Not at the El Cajon facility. There is four --
15 three bedrooms that are by themselves, only one bed fits
16 there.

17 Q And do any of the rooms have their own bathrooms?

18 A There is bathrooms in between the bedrooms, so
19 two bedrooms will share a bathroom.

20 Q Are there locks on the doors to the children's
21 rooms in any of the facilities?

22 A No.

23 Q Neither from the inside or outside?

24 A No, there is no locks.

25 Q Can children at your facility go to school with

1 other children that are not part of Southwest Key
2 facilities? I know you said they don't, but can they?

3 A They can't because that would be a disruption to
4 the other kids since a staff member has to be with them.

5 Q Right.

6 What about when they go to any recreation
7 programs, do they ever play games with groups of other
8 children?

9 A We don't allow for them to speak to strangers or
10 interact with strangers, so they wouldn't be interacting
11 with other kids unless it's a planned activity.

12 Q So if you go to Petco Park, the children aren't
13 permitted to talk to other people at the baseball stadium?

14 A They're not permitted.

15 Q And I assume that the children aren't paying
16 Southwest Key any amount of money while they're staying at
17 the facilities?

18 A No. No charge.

19 Q No utilities or anything like that?

20 A No.

21 Q Do they have cable or Internet?

22 A Yes.

23 Q And they're not paying for those services?

24 A They have cable. They don't have access to
25 Internet.

1 also an annual report but for fiscal year 2014?

2 A Yes.

3 Q Is this for a different facility in the top right
4 corner?

5 A Yes.

6 Q Is that the Mesa, Arizona?

7 A I'm not sure if it's Mesa, Arizona or in Houston.

8 Q And so -- you're not at all -- do you do any work
9 at all with this facility No. 950?

10 A No.

11 MR. FENSTERMACHER: Last document here.

12 (Defendant's Exhibit 10 was marked and
13 is attached hereto.)

14 BY MR. FENSTERMACHER:

15 Q Marking Exhibit 10 and handing it to you.

16 Do you recognize this document?

17 A Yes.

18 Q What is it?

19 A It's an operations manual.

20 Q Does this govern the operations of your current
21 facility?

22 A Yes.

23 Q And did it govern the operations of the previous
24 stand-alone Lemon Grove facility?

25 A Yes.

1 Q Would it have governed the operations of any
2 facility opened in Escondido?

3 A Yes.

4 Q Any reason to believe that the information in
5 this manual wouldn't be accurate?

6 A I don't know. I don't prepare the manual.

7 Q This would be prepared by the headquarters?

8 A Headquarters.

9 Q If you turn to page 14 of the document, it's page
10 1194 on the Bates stamp number. Under, do you see section
11 1.26 PREA policy?

12 A Yes.

13 Q Do you know what that is?

14 A Yes.

15 Q What is it?

16 A It's the PREA policy, so it's prison -- I don't
17 remember the acronym to that, but it's a policy that ORR
18 has implemented in June of last year.

19 Q What is that policy?

20 A So we -- it's just a policy to report any sexual
21 abuse, sexual harassment in the programs.

22 Q Are you familiar with the document referred to, I
23 believe it's the Southwest Key PREA policies and
24 procedures?

25 A Yes.

1 THE WITNESS: No.

2 (Recess.)

3 BY MR. FENSTERMACHER:

4 Q So, we talked a lot about the Lemon Grove
5 facilities you oversee and, specifically, the 48-bedroom
6 larger facility.

7 Would you anticipate that had a facility been
8 approved in Escondido at either of the motel sites or the
9 Del Diablo site, that it would have been run in a
10 substantially similar manner as the 48-bed facility that
11 you oversee?

12 A It would be the same with the exception of
13 transporting kids to an educational facility outside of
14 the program.

15 Q You said they would -- at least at Del Diablo it
16 would have been on-site?

17 A Yes.

18 Q But everything else would be the same?

19 A Yes.

20 Q And similar cooperation agreement that we talked
21 about earlier?

22 A Yes.

23 Q Are the children in your facilities, are they
24 allowed to modify their rooms at all?

25 A What do you mean by "modify"?

1 Q Decorate, for example, or move furniture.

2 A Yes. They could decorate their rooms with arts
3 and crafts that they're doing in the arts and crafts class
4 or projects that they work with in the school, with the
5 school.

6 Q But they're not bringing outside materials into
7 their rooms?

8 A Just stuff that is being provided by the program.

9 Q And do they have any decision-making as far as
10 what furniture is in their room?

11 A No. The program provides that prior to the
12 minors coming into the program.

13 MR. FENSTERMACHER: Okay. Well, that's all I have. I
14 understand you have a few questions.

15 MR. VAKILI: Yeah. Just a couple of minutes' worth.

16 EXAMINATION

17 BY MR. VAKILI:

18 Q I believe you testified earlier that you
19 characterized Ismael as the one heading up the search for
20 a facility in Escondido; is that correct?

21 A Yes.

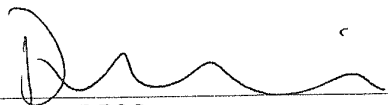
22 Q That was a change from his previous
23 responsibilities? Was that a change of his previous
24 responsibilities?

25 A At the moment, it was in addition to his

1 STATE OF _____)
2 COUNTY OF _____) ss.
3
4
5
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9 I, the undersigned, say that I have read the foregoing
10 deposition, and I declare, under penalty of perjury under
11 the laws of the State of California, that the foregoing is
12 a true and correct transcript of my testimony contained
13 therein.

14 EXECUTED this 22 day of June,
15 2016, at _____
16

17 
18 _____
19 DANIELA RIOS
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1
2
3 I, the undersigned, a Certified Shorthand Reporter of
4 the State of California, do hereby certify:

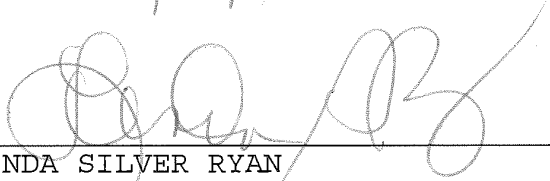
5 That the foregoing proceedings were taken before me at
6 the time and place herein set forth; that any witnesses in
7 the foregoing proceedings, prior to testifying, were
8 placed under oath; that a verbatim record of the
9 proceedings was made by me using machine shorthand which
10 was thereafter transcribed under my direction; further,
11 that the foregoing is an accurate transcription thereof.

12 I further certify that I am neither financially
13 interested in the action nor a relative or employee of any
14 attorney of any of the parties.

15 IN WITNESS WHEREOF, I have this date subscribed my
16 name.

17
18 Dated: _____

5/25/16

19
20
21 
22 LINDA SILVER RYAN
23 CSR No. 9915
24
25